IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

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**WRIT PETITION NO : 17932 of 2004**

Between:

Fire Works Dealers Association, a Society registered in accordance with the provisions of the Societies Registration Act, bearing registration No. 1389/2004, rep. by its Secretary, Sri K. Venugopal S/o K. Narasimlu, aged 35 yrs, Occ: Business, R/o Kandikal Gate, Uppuguda, Hyderabad.

..... PETITIONER

AND

1 Director of Marketing, Government of Andhra Pradesh, Hyderabad.
2 Agricultural market Committee, Hyderabad, rep. by its Person in charge.
3 Agricultural Market Committee, Hyderabad, Mehabub Mansion Market,

Malakpet, Hyderabad, rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of Mandamus, declaring the Notices, namely:- Niotice No.Issued to 1. AMCH/MMC/29/2001-02/1307 M/s Bhavani Fire Works. 2.AMCH/MMC/29/2001-02/1306 M/s Durga Fire Works. 3.AMCH/MMC/29/2001-02/1308 M/s Shanti Fire Works.
4.AMCH/MMC/29/2001-02/1309 M/s Ramesh Fire Works.
5.AMCH/MMC/29/2001-02/1312 M/s Raja Rajeshwari Fire Works.
6.AMCH/MMC/29/2001-02/1310 M/s Krishna Fire Works.
7.AMCH/MMC/29/2001-02/1311 M/s Sai Om Fire Works. issued by the respondents herein as illegal , arbitrary and violative of Articles 14, 19 and 300-A of the Constitution of India and consequently direct the respondents not to interfere with

the business activity of the members of the petitioner association by dispossessing the petitioner association members in respect of the property bearing Mulgi Nos. 17, 15, 12, 20, 28, 37 and 40 respectively situated in Sri Krupa Market (popularly known as Mahabub Mansion), Malakpet, Hyderabad,

**Counsel for the Petitioner: MR.P.VENUGOPAL**

**Counsel for the Respondents: GP FOR AGRICULTURE**

The Court at the admission stage made the following:

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION NO.17932 OF 2004**

**ORAL ORDER :**

The petitioner claims to be a registered Association of dealers in Fire Works.

This writ petition is filed questioning the notices dated 28-09-2004 issued by the 2nd respondent directing the members of the petitioner Association to vacate the shops where they are carrying on business in Fire Works within three days.

As can be seen from the affidavit filed in support of the writ petition, some of the members of the petitioner Association are in occupation of different shops situated in Sri Krupa Market (Mahaboob Mansion), Malakpet wherein they have been carrying on the business in Fire Works. It is claimed that the Members of the Petitioner Association are having valid and subsisting statutory licences for the purpose of the trade in Fire Works and have been observing all the prescribed safety measures. The authorities under the relevant statutes have been regularly checking and supervising the observance of the safety measures adopted by them. While so, the third respondent issued identical notices dated 17-09-2004 to the members of the petitioner Association directing them to close down their business and to remove the Fire Works from the shops / godowns immediately. Thereafter, the second respondent issued notices dated 28-09-2004 directing the members of the petitioner Association to vacate the shops and close down the business within three days. The said notices are under challenge in this writ petition.

I have heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The learned Counsel for the petitioner Sri P.Venu Gopal contends that the impugned notices of eviction are arbitrary and illegal since the business being carried on by the members of the petitioner Association is permissible under law and particularly since they are holding a valid and subsisting lease for 99 years. It is also contended that since the members of the petitioner Association are not dealing in any one of the scheduled commodities under the provisions of the Andhra Pradesh (Agricultural Produce and Live-stock) Markets Act, 1966 (for short, 'the Act'), respondents have no authority to direct closure of the business and therefore the impugned proceedings are without jurisdiction.

It is not in dispute that Mahaboob Mansion Complex where the shops in question are situated forms part of market-yard of Agricultural Market Committee of Hyderabad. Though it is claimed by the petitioner that the members of the petitioner Association are holding lease for 99 years, nothing has been placed before this Court to substantiate their claim.

On the other hand, the specific case of the respondents 2 and 3 is that they are carrying on business in Fire Works in the shops allotted to the traders without permission of the Market Committee. It is also stated in the impugned notices that in the shops allotted, the traders or sub-lessees should carry on the business for sale or purchase of agricultural produce notified by the Agricultural Market Committee under the powers vested under the Act, as such the sale of explosives in the shops in question is against the conditions of the lease agreement executed by the traders at the time of allotment of shops which may cause fire accidents and loss to the public property as well as human lives, since the market yard is a major assembling place of public for their daily routine work.

It is relevant to note that the impugned notices refer to condition No.3 of the Lease Deed under which the traders in shops 1 to 47 and 338 to 372 were allowed to deal in the non-notified commodities of Sugar, Oil, Diesel Oil, Kirana, Fertilisers, Pesticides, Agricultural Implements and Hardware or any other commodity which will be useful for the farmers as per the Government Order in Government Memo No.1327/AGRL.-IV/80-I, dated 28-05-1980. While placing reliance on the said Government Memo, the learned Counsel for the petitioner contends that as per the

said memo, since the traders are entitled to carry on the business even in respect of Non-notified Commodities, the impugned notices issued by the respondents directing the members of the petitioner Association to vacate the shops in question is arbitrary and illegal.

I am unable to agree with the contention of the learned Counsel for the petitioner. A reading of the Government Memo dated 23-05-1980 shows that the persons in occupation can carry on the business in Non-notified Commodities or any other commodity which will be useful for the farmers. Admittedly, the members of the petitioner Association are carrying on the business in Fire Works, which cannot be said to be useful to the farmers in any way. Hence, the impugned notices issued by the respondents directing the members of the petitioner Association to vacate the shops in question cannot be held to be either arbitrary or illegal. Since there is no dispute about the fact that the shops in question are situated in the Market-yard, the respondents 2 and 3 are justified in initiating the impugned proceedings on the ground that the occupants of the shops are not using the premises for business in a non-notified commodity contrary to the conditions of lease agreement executed by the traders. The contention that the impugned action is without jurisdiction is misconceived and cannot be accepted.

The Writ Petition is devoid of any merit and is accordingly dismissed. No costs.

However, having regard to the facts and circumstances of the case, the members of the petitioner Association are granted three days time from today for vacating the shops in question.

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06th October, 2004.

Note:- CC by tomorrow.

(B/O)

vgb

To

1 Director of Marketing, Government of Andhra Pradesh, Hyderabad.

2 Agricultural market Committee, Hyderabad, rep. by its Person in charge.
3 Agricultural Market Committee, Hyderabad, Mehabub Mansion Market,

Malakpet, Hyderabad, rep. by its Secretary.

4 2CCs to the Government Pleader for Agriculture, High Court

Buildings, Hyderabad (OUT)

5 2CD copies